

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT CHATTANOOGA**

DARCELL WALTON,)	
)	
<i>Plaintiff,</i>)	
)	Case No. 1:22-cv-228
v.)	
)	Judge Atchley
)	
GESTAMP CHATTANOOGA, LLC,)	Magistrate Judge Steger
)	
<i>Defendant.</i>)	
)	

ORDER

On August 1, 2023, United States Magistrate Judge Christopher H. Steger filed a Report and Recommendation [Doc. 8] pursuant to 28 U.S.C. § 636, the Rules of this Court, and Standing Order 13-02. The Magistrate Judge recommends that Plaintiff's claim of race discrimination in violation of Title VII be **DISMISSED** for failure to state a claim upon which relief can be granted; that Plaintiff's disability discrimination claim in violation of the ADA be **DISMISSED** for failure to state a claim upon which relief can be granted; that Plaintiff's claim of sexual harassment in violation of Title VII **SURVIVE SCREENING** because Plaintiff has stated a potentially viable claim upon which relief can be granted; that Plaintiff's claim for retaliatory discharge in violation of the FMLA **SURVIVE SCREENING** because Plaintiff has stated a potentially viable claim upon which relief can be granted; that the Clerk of Court issue service packets to Plaintiff to complete and return to the Clerk of Court¹; and that Gestamp's Motion to Dismiss [Doc. 3] for insufficient service of process be **DISMISSED AS MOOT** without prejudice. [Doc. 8 at 9-10]. Further, as Plaintiff is not an attorney and is acting *pro se*, the Magistrate Judge recommends that

¹ The Court notes that pursuant to Magistrate Judge Steger's Order [Doc. 7], service packets were issued to Darcell Walton at the Clerk of Court's office intake on August 14, 2023. Accordingly, this portion of the R&R is moot.

any claims asserted on behalf of Byron Walton, Stacey Cheeves and Demarcus be **DISMISSED WITHOUT PREJUDICE**. [Doc. 8 at 5]. Neither party has filed an objection to the Report and Recommendation.² The Court has nonetheless reviewed the Report and Recommendation, as well as the record, and agrees with Magistrate Judge Steger's well-reasoned conclusions.

Accordingly, the Court **ACCEPTS** and **ADOPTS** Magistrate Judge Steger's findings of fact and conclusions of law as set forth in the Report and Recommendation [Doc. 8]. Plaintiff's claims on behalf of Byron Walton, Stacey Cheeves, and Demarcus are **DISMISSED WITHOUT PREJUDICE**; Plaintiff's race discrimination and disability discrimination claims are **DISMISSED** for failure to state a claim upon which relief can be granted; Plaintiff's sexual harassment and retaliatory discharge claims will **SURVIVE SCREENING**; and Gestamp's Motion to Dismiss [Doc. 3] for insufficient service of process is **DISMISSED AS MOOT** without prejudice.

SO ORDERED.

/s/ Charles E. Atchley, Jr.
CHARLES E. ATCHLEY JR.
UNITED STATES DISTRICT JUDGE

² Magistrate Judge Steger advised that the parties had 14 days in which to object to the Report and Recommendation and that failure to do so would waive any right to appeal. [Doc. 8 at 9 n.2]; *see* Fed. R. Civ. P. 72(b)(2); *see also* *Thomas v. Arn*, 474 U.S. 140, 148-51 (1985) ("It does not appear that Congress intended to require district court review of a magistrate judge's factual or legal conclusions, under a de novo or any other standard, when neither party objects to those findings.").